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high water

a floodplain management newsletter

Volume 37

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Flood zone determination services available

Fully insured flood search services have been available for several years now from private firms that specialize in determining the flood zone for property. This service would be useful to lenders, insurance agents, realtors, developers, appraisers, or anyone needing a flood zone determination. A phone call, a legal description (1/4's, section, township, and range), and a small fee can get you a determination of the flood zone for a piece of property.

Some services have toll-free numbers. Photocopies of pertinent floodplain maps are sometimes provided and most services guarantee accuracy or carry errors and omissions insurance on determinations. Fees range from \$5.00 to \$25.00 per determination. Some of these companies also write flood insurance. We contacted one company that offered a FAX service for \$10.00.

It is becoming more critical for lenders and appraisers to make accurate flood zone notifications and determinations. The June issue of High Water featured an article about "Lender's Lawsuits." In an unprecedented ruling, a jury handed in a judgment against a Connecticut bank for failing to notify a mortgage holder that mortgaged property was in a floodplain. The court case is "Small V. South Norwalk Savings Bank" (205 CONN.751). Small obtained a \$52,000 loan

from the bank to buy property. The appraiser used the bank's outdated floodplain map to determine if flood insurance was necessary. The old map showed the property was outside the floodplain, and flood insurance was not purchased. However, current revised maps showed the property in the floodplain.

The property was damaged in a flood and Small was awarded \$35,000 in actual

damages. The judgment was appealed on the grounds that the award was greater than the flood insurance claim Small might have received. The judge and jury refused to consider this fact and compensated Small for both insurable and uninsurable losses.

The Federal Emergency Management Agency (FEMA) suggests that the lawsuit should put lenders on alert to comply with



Drawing by Shanahan; ©1989 The New Yorker Magazine, Inc.

Montana Department of Natural Resources and Conservation

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rules regarding flood-hazard zones when making real estate loans. FEMA said small-scale lenders should be especially cautious. Martin Friedman, an independent flood zone determination agent, stated, "many lenders have chosen to use half-way measures because they felt there was no danger to them in the event they made a mistake." Regarding the Connecticut case, Friedman said that lenders should be cautious. He noted that "they are required to be as careful with the flood insurance requirements as they are with any other statutory requirements."

The firms listed below provide flood zone search assistance for Montana. You can give this information to lenders when they contact you asking about flood zones. Please note that we are not endorsing any of these services.

Flood Analysis & Coverage System
1100 Carr Road
Wilmington, Del 19809
(800) 525-3227
Zone determination and mandatory insurance coverage determination.
"Hold harmless agreement" provided.
Endorsed by American Bankers Association.
Will also write flood insurance policies.
\$25.00 per determination.

Flood Hazard Certification Inc.
P.O. Box 607
Elmwood Park, NJ 07407-0607
(800) 247-3384
If the property is in the 100-year floodplain, FHC provides the community number, flood zone, and base flood (100-year flood) elevation.
Determinations for Montana take three days.
\$7.50 per determination.

Flood Hazard Determinations
P.O. Box 66960
130 S.W. 156th
Seattle, WA 98166
(206) 241-0730
Phone and mail orders accepted, \$5.00 fee per determination.

Flood Insurance Services, Inc.
P.O. Box 10220
Reno, NV 89510
(702) 689-8635
(800) 356-6347
Guaranteed accuracy.
Paragraph provided explaining the flood zone, panel number, and date.
When maps are updated, client is notified of new zone.
\$9.00 fee using U.S. Mail
\$10.00 fee for FAX
\$15.00 two-hour express service

Flood Services
25 Beachway Drive, Suite D
Indianapolis, IN 46224
(317) 241-3908
Local contact is provided.
Services available 24 hours a day 7 days a week.
\$15.00 fee

GEOTRAC
26 1/2 West Main Street
Norwalk, OH 44857
(419) 668-8899
Does not use historical flood insurance policy information (20% of these show incorrect zones).
If a community has frequent requests, Geotrac will build a database that can be used on a P.C.
\$15.00 to \$20.00 per determination.

National Flood Certification Services, Inc.
P.O. Box 15707
St. Petersburg, FL 33733
(800) 237-3441, Ext. 222
(813) 579-4000, Ext. 222
48 hour turn around time.
FAX available or determination given by phone and followed up by hard copy.
Flood insurance quotes and policies written.
Errors and omissions insurance on determinations.
\$15.00 per determination.

(Portions of this article taken by permission from U.S. Water News, December, 1988)

Workshops for lenders and insurance agents in your area

The Computer Sciences Corporation (CSC) contracts with the Federal Emergency Management Agency to hold low-cost workshops for lenders and agents. If you are tired of answering questions about floodplain maps or being asked to make flood zone determinations, consider holding a workshop in your area. These workshops are designed to teach lenders and insurance agents to read floodplain maps and be able to make their own flood zone determinations without your assistance.

Flathead County arranged to have workshops held in Kalispell last July. Steve Herbaly, director of the Flathead Regional Development Office, assisted CSC with the workshops. Herbaly said the people who attended were pleased with the workshops. A representative from every area bank was at the workshop. He felt it is "definitely worthwhile" for communities to hold workshops in their area.

Herbaly had some advice for other communities hosting workshops. He recommends coordinating early with CSC for some of the advertising to be conducted by the local floodplain management

administration. Flathead County planned with CSC to handle advertising for the Kalispell area. CSC advertised in the Great Falls and Libby areas.

Herbaly highly recommends using local media releases (newspapers, radio, and TV) to advertise the workshops. He also suggests developing a brochure for mailing. CSC has a standard brochure that it uses to advertise the workshops held in our region. Herbaly thinks a brochure developed specifically for each local workshop would get a better response. He also called key bankers in the Kalispell area to personally invite them to the workshops. The Kalispell area has a local independent insurance agents network, and Herbaly relied on the network to notify agents of the workshops.

Herbaly strongly recommends that lunch be included with the workshop fee. He feels offering lunch will help increase attendance. Another bonus is that many hotels will offer a decrease in the meeting room rate if your meeting includes lunch at their facility. CSC has included lunch as part of its workshops in the past, which can be pre-arranged.

Attendance was increased at the Kalispell workshop because Herbaly arranged for realtors to receive continuing education credits towards their licensing requirements. The workshop also included a showing of water quality videos and video footage of the 1964 flood on the Flathead River.

If you are interested in having a workshop in your area, we suggest you work with other floodplain administrators in the vicinity. For instance if a workshop is held in Butte, administrators from Bozeman, Helena, Boulder, Anaconda, Deer Lodge, Dillon, and Three Forks could be involved with advertising and organizing the workshop. We can also offer any assistance needed. CSC needs to be assured of a good attendance to justify holding a workshop.

If you are interested in having workshops in your area contact:

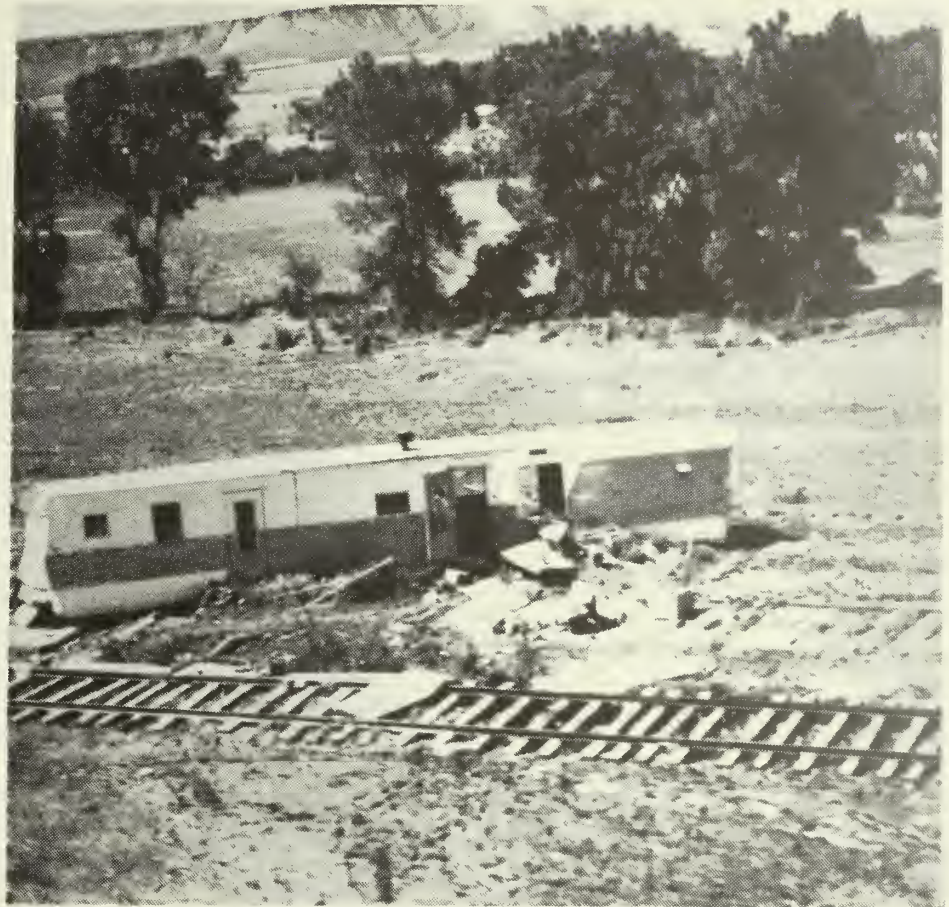
Peter Yarnot
Computer Sciences Corporation
800 Roosevelt Road
Building B, Suite 418
Glen Ellyn, IL 60137
(312) 790-9680

Proposed manufactured home regulations

The May 19, 1989 federal register contains new proposed elevation requirements for manufactured homes in existing mobile home parks or subdivisions. These rules were first revised back in October 1986. The rules were revised in 1986 because an Interagency Hazard Mitigation Team wanted to eliminate the "grandfathering" exception to the standards for existing manufactured home parks to prevent future reoccurrences of flood damages. The 1986 rules for manufactured homes were more stringent and received a lot of opposition from manufactured home park owner associations. Due to this opposition, the Federal Emergency Management Agency (FEMA) decided to suspend the 1986 regulations and consider other options. The May 1989 proposed rules are the result of independent studies and comment letters sent to FEMA.

The suspension of the 1986 rules will be continued until September 30, 1989. Unofficial word from the FEMA regional office in Denver suggests that the proposed rules will be in place by the time the suspension is lifted. There are three new rules that apply to manufactured homes. The following is a summary of those rules; for a complete copy see the May 19, 1989 federal register.

- 1) Communities must have a plan for evacuating residents of existing manufactured home parks or subdivisions. Plans must be approved by appropriate community emergency management authorities. The plan can be a component of an overall emergency plan or required of each park owner.
- 2) a. When a manufactured home in a park or subdivision has been "substantially damaged" from flooding, the manufactured home, when repaired or replaced, must be raised to the 100-year flood elevation. "Substantial damage" means damage to a structure where the cost of full restoration would equal or exceed 50 percent of the pre-flood market value.
b. Manufactured homes, when replaced or substantially improved on a site outside a park or subdivision, must be elevated to the 100-year flood level. This rule is currently in effect and is not actually a change to the rules.
c. Manufactured homes must be elevated to the 100-year flood level in



new parks or subdivisions or expansions of existing parks or subdivisions. This rule also has been in effect and is not a change.

3. The third rule applies to manufactured homes replaced or substantially improved (for reasons other than flood damage) in existing parks or subdivisions. These homes must be elevated so the chassis is supported by reinforced piers that are no less than 36 inches in height above the grade at the site. The 36-inch reinforced pier, combined with the height of a manufactured home chassis and floor, places the top of the floor between 4 1/2 to 5 feet above the lowest grade at the site. Other foundation elements are allowed if they meet the 36-inch height requirement. A lower foundation system is allowed if the lowest floor would be at or above the 100-year flood elevation.

The floodplain management regulations don't apply to a recreational vehicle if it is

on site less than 180 consecutive days or is licensed and ready for highway use. "Ready for highway use" means the vehicle remains on its wheels or jacking system, is attached to the site by quick disconnect utilities and security devices, and does not have permanent additions. A community has the option to apply either the "180 day" or the "ready for highway use" criteria.

Communities that have adopted the December 15, 1986 Montana Model Floodplain Ordinance exceed the proposed requirements. Montana communities having adopted the December 21, 1988 model ordinance will also meet these new criteria. Communities that do not have existing manufactured home parks or subdivisions in the floodplain are considered to be compliant by FEMA regardless of the language in their ordinance because the "grandfather" provision would have no practical affect. Evidently the FEMA regional offices are not anxious to ask the remaining Montana communities to update their local ordinances. We will keep you informed of any further action.

Floodplain Rule Amendments

The Board of Natural Resources and Conservation (Board) met on July 17 to consider proposed amendments to ARM 36.15.101 through 903. The proposed rule changes and the July 17 hearing before the Board were advertised in the June 15, 1989 Administrative Register which is published by the Secretary of State.

There are some significant changes considered for adoption by the Board. The proposed rules require local governments to provide notice to adjacent property owners and DNRC whenever a floodplain development permit application is received. The existing \$25 limit for application fees would be eliminated so that the costs for providing notice and processing permits can be recovered through fees.

The rule amendments provide for using the base flood elevation (BFE) when interpreting the limits of the 100-year frequency floodplain. The BFE can be obtained from the Floodway Data Table or the flood profiles contained in a flood insurance study report by FEMA, in a flood hazard study by the SCS, or in a floodplain information report by the U.S. Army Corps

of Engineers. Flood Insurance Rate Maps also give approximate base flood elevations, but these maps should not be relied on for accurate elevations. The maps may be used as a guide, but the BFE compared with actual ground elevations in the field is the governing factor in determining whether property is within the floodplain.

A level survey may be required to determine whether property is within the floodplain. The survey should be performed by a professional engineer or registered land surveyor. Elevations should be certified based on a National Geodetic Vertical Datum or be consistent with the floodplain study. The survey is a responsibility of the landowner or applicant. Recent placement of fill does not necessarily nullify a floodplain designation for a given property.

Replacement mobile and manufactured homes need not be elevated on fill under the proposed changes. They may be placed on a permanent foundation of mortared block or concrete and elevated two feet above the BFE. See the related article in this issue on proposed manufactured home regulations for information regarding

federal requirements.

Installation of individual sewage disposal systems such as septic tanks and drainfields is allowed in the flood fringe only when it is reviewed and approved by the Department of Health and Environmental Sciences or a local health board. Such systems are prohibited in the regulatory floodway.

The Board has approved the rules as they appeared in the June 15 Administrative Register with only minor changes. The final rules will be published in the Administrative Register in a notice of adoption sometime before the November meeting of the Board. It is anticipated that the Board's formal adoption of the rules will occur in November at a meeting to be held in Helena.

The Board received many formal comments prior to and at the July 17 hearing that pertained to the proposed rules regarding BFE's and interpreting Zone B areas. It is possible to have land below the BFE within a Zone B area. Zone B includes areas between the limits of the 100- and 500-year flood or areas subject to shallow sheetflooding of up to an average depth of one foot. FEMA flood insurance maps must be relied upon to determine whether property is in a Zone B.



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